

## REMARKS

The Office Action objects to the Specification contending that the term "barcode" should be defined as two words "bar code". Claims 6 and 7 are rejected under 35 USC 112 in that they use the term "barcode" instead of two words "bar code". Applicant respectfully requests reconsideration of this rejection contending that the spelling of the term "barcode" is correct as a single word. Attached is Exhibit A which lists 100 recently issued patents from the USPTO which uses the single word "barcode" in the title of the patent. Also attached is an Exhibit B which shows that the spelling of the word "barcode" is a single word. Therefore, it is respectfully submitted that this rejection be withdrawn and that use of the single word "barcode" as used in the Specification and Claims is correct.

The Examiner rejected claims 1, 3-14, and 16-20 under 35 U.S.C. 103(a) as being unpatentable over US20040134983A1 to Oyama et al in view of USPN 6,018,860 to Smith et al, and further in view of USPN 6,341,009 to O'Connor et al. Furthermore, the Examiner rejected claims 2 and 15 under 35 U.S.C. 103(a) as being unpatentable over Oyama et al, in view of Smith et al in view of O'Connor et al, and further in view of USPN 5,304,773 to Killian et al.

In the action, the Examiner indicated that the substantial limitations of the claims are disclosed by Oyama et al. Applicant respectfully submits, however, that Oyama et al cannot be cited against the present application and, thus, the claims are not obvious in view of the combination of references set out above.

According to MPEP 706.02 ( C ):

*If the application claims foreign priority under 35 U.S.C. 119(a)-(d) or 365(a) or (b), **the effective filing date is the filing date of the U.S. application**, unless situation (A) or (B) [of MPEP 706.02] as set forth above applies. **The filing date of the foreign priority document is not the effective filing date**, although the filing date of the foreign priority document may be used to overcome certain references.*

(Emphasis and clarification added by Applicant)

Oyama et al was filed in the United States as Application No. 10/751,901 on January 7, 2004. The application claimed priority under 35 U.S.C. 119 back to a Japanese application, JP2003-004671, which had been filed on January 10, 2003. Thus, in accordance with the guidelines in MPEP 706.02 ( C ), **the effective filing date of Oyama et al is January 7, 2004.**

**The Applicant's filing date is June 23, 2003.** This predates the effective filing date of Oyama et al by almost seven months. Furthermore, Oyama et al's Japanese application was not yet published on Applicant's filing date and the reference would therefore not have been available to be considered as prior art under 35 U.S.C. 102.

Applicant therefore respectfully submits that Oyama et al cannot be cited against the present application and, since this reference discloses the "substantial limitations" of the claims according to the Examiner, the combinations of the remaining references fail to render the claims obvious.

The combining reference, Smith (US 6,018,860) was merely cited to show that it is well-known to use plural inspection stations. It does not disclose any type of system for marking vehicle tires having a control unit, a first station, a first reader, a second station, a laser applicator and a positioning mechanism as set forth in system claim 1 and used for carrying out the method of claim 13.

Likewise, the second combining reference O'Conner (US 6,341,009) was merely cited to show that it is well-known to use first and second cameras for different tests. Again, there is no disclosure of any type of system for marking tires as set forth in system claim 1 and the method of claim 13.

The third combining reference, Kilian (US 5,304,773) was cited only to show the well-known XYZ laser movement, again not used in any manner in connection with a tire marking system as set forth in system claim 1 or the method as set forth in claim 13.

Thus, without the main cited Oyama reference, none of the three combining references, individually or when combined, even remotely show or suggest the system of claim 1 and the method of claim 13.

In view of the foregoing, the Applicant respectfully requests reconsideration of the claims and most earnestly solicits the issuance of a formal notice of allowability for the claims. Please call the undersigned attorney if any questions remain after this amendment.

Respectfully submitted this <sup>TH</sup> 29 day of October, 2009.

SAND & SEBOLT



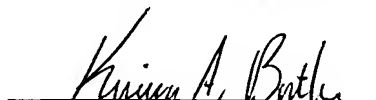
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